IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 17512 of 2002

Between:

Sri Krishna Chaitanya High School rep.by its Correspondent, B.Rathaiah, Naidupet Town, Nellore Distict.

..... PETITIONER

AND

1. The Government of A.P., rep by its Secretary, Department of School Education, Secretariat Buildings, Hyderabad.
2. The Director of School Education, Government of A.P., Hyderabad.
3. The Regional Joint Director of School Education, Guntur, Guntur Dist.
4. Viswabharathi High School rep by its Correspondent, Naidupeta town, Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the action of the respondents 1 to 3 in ignoring the conditions prescribed in relevant rules made for according recognition to schools and proceeding to accord recognition to 4th respondent school in violation of the rules as illegal and arbitrary and consequently direct the respondents 1 to 3 to follow the rules made for according recognition to the schools.

Counsel for the Petitioner: MR.P.GANGA RAMI REDDY

Counsel for the Respondents 1 to 3: GP FOR SCHOOL EDUCATION

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.17512 OF 2002

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ORDER:

The petitioner is a recognized school. The third respondent herein accorded permission to the petitioner school during the academic year 1997-98, which was upgraded to high school in the next year. The petitioner states that Naidupet is a Gram Panchayat where there are more than half a dozen schools including two Government schools and that there is no need for establishment of another school. The petitioner is aggrieved by the action of the respondents 2 and 3 in considering the proposal of the fourth respondent for establishment of a high school, within a distance of 150 meters from petitioner school. The petitioner contends that as per Rule 4 of The A.P.Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Managements) Rules, 1993, (the Rules, for brevity), a new school cannot be permitted to be established within a distance of one kilometer, if it is a pre primary or primary school; within a distance of two kilometers, if it is a upper primary school; and within a distance of five kilometers, if it is a high school. The petitioner contends that this Rule is violated. Secondly, the petitioner submits that a new school would not be viable as there are already sufficient schools in Naidupet Gram Panchayat.

This Court while admitting the writ petition on 24.09.2002 ordered notice to the respondents. The respondents have not so far filed any counter affidavit.

At the time of filing the writ petition, permission was not granted to fourth respondent. Therefore, it is incumbent on the part of the respondents 2 and 3 to keep in mind the Rules, especially Rule 4 of the Rules, before granting any permission to fourth respondent. In the interregnum, if permission is granted, a copy of the permission granted to the fourth respondent shall be communicated by the second respondent to the petitioner, whereupon, it shall be open to the petitioner to file appeal under Section 89 of the A.P.Education Act, 1982 before the third respondent. The second

respondent shall consider all the questions raised by the petitioner and pass appropriate orders in the matter.

The writ petition, with the above directions, is disposed of.

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(V.V.S.RAO,J)

06.10.2004.

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To

1. The Secretary, the Government of A.P., Department of School Education, Secretariat Buildings, Hyderabad.
2. The Director of School Education, Government of A.P., Hyderabad.
3. The Regional Joint Director of School Education, Guntur, Guntur Dist.
4. 2 CCs to the G.P. for School Education, High Court Buildings, Hyderabad (OUT).
5. 2 CD copies.